

DE919990097US1

09/746,190

REMARKS

The Applicant has amended the claims according to 37 CFR 1.16(b)(2) in order to present the claims in better form for consideration on appeal. No new matter has been added and the scope of the claims are substantially the same as previously presented. The Applicant respectfully requests the amendment be entered.

In paragraph 2 of the office action, the examiner rejects claims 31, 34-41, 43-44, 46-47, 50-58 and 60 under 35 U.S.C. 102(e) as being anticipated by Feigenbaum, US Patent No. 6,339,785.

The Feigenbaum invention is directed to a client fetching a file by finding a plurality of servers having copies of the file and downloading a portion of the file copy from each of the plurality of servers in parallel. The goal is to improve the time needed to download a file to the client by downloading separate portions from multiple servers having multiple copies of the file. This teaches away from the present invention that is directed to downloading a file from a single server as shown in the claims. The Examiner has failed to show a single server downloading out of order portions of a file or the single server skipping files already downloaded by the single server as shown in the claims.

In the Examiner-initiated interview summary of a telephone conversation of December 6, 2005, the examiner states that "Applicant clarified .... The local file is a memory location on the client machine, the remote file is the file stored on the server". The Applicant respectfully submits that the conversation summarized verifies that the Applicant and the Examiner agreed

DE919990097US1

09/746,190

that there was a single file server and a single file thereon which is fundamentally different from the Feigenbaum cited reference.

The language of the claims clearly specify "transferring remote files from a remote server" which is a single server. The remote server can not be construed as a plurality of cooperating servers. In order to more clearly point out this limitation in the claims, the Applicant has amended the claims to explicitly state the "single server" limitation throughout. The applicant submits that the single server system of the claims is novel over the plural server system cited by the Examiner and respectfully requests the claims as amended be allowed.

The present invention is directed to providing a client with a requested portion of a file from a single server wherein the requested portion is downloaded ahead of other portions out of ordinary order. The client can receive the requested portion much more quickly than waiting for the complete file to transfer. The portion is transferred first and then portions not already transferred are then transferred as shown in the claims.

Feigenbaum fails to teach a requester requesting at a client a portion of a remote file (other than a first portion of the file) at a server. Feigenbaum further fails to teach downloading the requested portion out of order, skipping portions already downloaded and making the first portion available to the user as soon as it is downloaded as shown in the claims.

In the Examiners Response to Arguments, the Examiner says "Applicant argues in substance that A) Feigenbaum does not disclose requesting a portion of the file other than the first portion of the file; B) Feigenbaum does not disclose retrieving all the portions of the remote file to the local file and skipping portions already downloaded." The applicant disagrees. The Examiner has failed to address the Applicants argument substantially that Feigenbaum does not disclose retrieving a file

DE919990097US1

09/746,190

from a single file server wherein portions of the single file are retrieved out of order. In Fact, Feigenbaum teaches downloading portions of a plurality of files from a plurality of servers which teaches away from the present invention. Examiner's A) and B) responses fail to take into account that the Claims are to a single File in a Single server.

Examiner's Response "A)" argues "Feigenbaum teaches a system and method for downloading a file where the requester may request the file to be downloaded 'out of order'. The requested file is downloaded in portions and the downloading of the file starts at a position determined by the requester where the requester may choose to start downloading at an offset of 1000 as explicitly taught by Feigenbaum. Therefore Feigenbaum teaches requesting a portion of the file other than the first portion of the file." The applicant disagrees. The cited Feigenbaum system downloads a first portion of a file from a first server but not the complete file. Other Feigenbaum servers download portions of other files in parallel with the first portion. The file of Feigenbaum is not downloaded "out of order" from the first system as argued by the Examiner as no single server downloads all portions of a single file, nor does a single server download the portions out of order from the same single server. Therefore the Claims are allowable, which allowance is respectfully requested.

The Examiner says in response to B) "Feigenbaum (teaches) the requested file is downloaded in portions where the file starts downloading the (file) at a location determined by the requester. After the requested portion is downloaded, the system continues to download the other portions of the file until all the portions of the file has been downloaded where only the portions that missing portions are downloaded. Therefore, Feigenbaum teaches retrieving all the portions of the remote file to the local file and skipping portions already downloaded." The Applicant disagrees. Feigenbaum does not teach retrieving all portions of

DE919990097US1

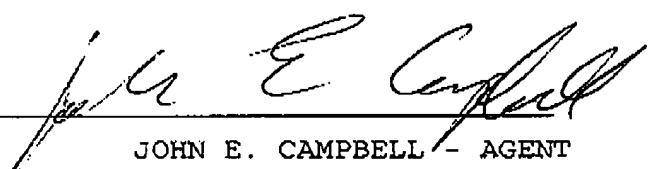
09/746,190

a file from a single server, nor does Feigenbaum teach the single server also skipping portions downloaded. Each Feigenbaum server has a copy of a file so each Feigenbaum server downloads only a portion if the respective copy rather than a portion of a single file as shown in the claims. Therefore Claims 31, 40, 46, 47, 50, 53, 54, 57 and 60 as amended are allowable, which allowance is respectfully requested. Furthermore Claims 34-39, 41, 43-44, 51-52, 55-56 and 58 as amended are allowable as they depend on allowable amended Claims 31, 40, 46, 47, 50, 53, 54, 57 and 60 respectively, which allowance is respectfully requested.

It is respectfully submitted that the application is now in condition for allowance, which allowance is respectfully requested.

RESPECTFULLY SUBMITTED

BY:



JOHN E. CAMPBELL - AGENT  
Registration No. 52,687  
Phone: 845-433-1156  
Fax: 845-432-9786

-19-